

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

7th & ALLEN EQUITIES,

Plaintiff,

vs.

HARTFORD CASUALTY
INSURANCE COMPANY

Defendant.

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CASE NO: 11-cv-01567

ORDER

AND NOW, this _____ day of _____, 2012, upon consideration of Plaintiff's Motion to File Sur Reply Brief to the Reply Brief of Defendant and all responses thereto, it is hereby **ORDERED AND DECREED** that Plaintiff's Motion is **GRANTED**.

BY THE COURT:

J.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

7th & ALLEN EQUITIES,

Plaintiff,

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INSURANCE COMPANY

Defendant.

CASE NO.: 11-cv-01567

PLAINTIFF, 7TH & ALLEN EQUITIES', MOTION TO FILE
SUR REPLY BRIEF TO REPLY BRIEF OF DEFENDANT,
HARTFORD CASUALTY INSURANCE COMPANY TO THE
OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, 7th & Allen Equities, by and through its undersigned counsel, hereby moves this Court for permission to file a Sur Reply Brief to the Reply Brief filed by Defendant, Hartford Casualty Insurance Company, and in support thereof, avers as follows:

1. On July 24, 2012, Defendant, Hartford Casualty Insurance Company filed their Motion for Summary Judgment.
2. On August 13, 2012, Plaintiff, 7th & Allen Equities filed its Response to the Motion for Summary Judgment.
3. On September 18, 2012, the Court granted Defendant, Hartford Casualty Insurance Company's, Request to file a Sur Reply Brief.
4. The Sur Reply Brief attached to it an Affidavit of Michael Zazula, who is the person from Hartford's expert, Plick & Associates, who took possession of the sprinkler head at issue, examined it, photographed it, but failed to retain the sprinkler head.

{00317336;1}

5. The Affidavit from Mr. Zazula attests to his knowledge of the importance of the sprinkler head to the issues in this case, and notwithstanding, alleges that he turned the sprinkler head over to the tenant of the building, Rite-Aid, but did not get the names of the persons he turned it over to, nor anything in writing indicating that Mr. Zazula had, in fact, turned the sprinkler head over to Rite-Aid employees.

6. The representations made in the Affidavit were not available to Plaintiff, 7th & Allen Equities, at the time they filed their Brief in Opposition to the Motion for Summary Judgment.

7. Accordingly, Plaintiff respectfully request the right to file a Sur Reply Brief in the form attached hereto to address the issues of the Affidavit of Michael Zazula.

Respectfully submitted,

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*Attorneys for Plaintiff,
7th & Allen Equities*

Dated: October 1, 2012

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

7th & ALLEN EQUITIES,

Plaintiff,

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CERTIFICATE OF SERVICE

I certify I caused a true and complete copy of the within, *Plaintiff, 7th & Allen Equities', Plaintiff, 7th & Allen Equities', Motion to File Sur Reply Brief to Reply Brief of Defendant, Hartford Casualty Insurance Company, to the Opposition to Defendant's Motion For Summary Judgment*, to be served upon those listed below by filing same with the U.S.D.C., E.D. PA. ECF System on October 1, 2012.

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Respectfully submitted,

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